

February 4, 1986

Mr. Thomas J. Dufficy
Senior Counsel
National Association of
Photographic Manufactures, Inc.
600 Mamaroneck Avenue
Harrison, New York 10528

Dear Mr. Dufficy:

This in response to your letter dated January 16, 1986, concerning the regulatory status of photographic films and papers under Subtitle C of RCRA. As you state in your letter, representative samples of high volume sensitized products --unprocessed and processed Industrial Radiographic and Kodacolor VR 400 films--were tested using the extraction procedure (EP) toxicity test; these films did not exhibit EP toxicity. The Radiographic films, you state, have the highest silver coverage (i.e., approximately 49 troy ounces per 1000 ft²) and, thus, represents the worst case. The Kodacolor VR 400 film is representative, you believe, of the amateur films processed by photo finishers and also has the highest silver coverage of the amateur films (i.e., approximately 34 troy ounces per 1000 ft²). Based on this test data, you believe that used photographic films and papers are not subject to the hazardous waste rules.

As you are aware, solid wastes are defined as hazardous under RCRA if they are listed or exhibit one or more of the hazardous waste characteristics (i.e., ignitability, corrosivity, reactivity, or EP toxicity). Since photographic films and papers are not specifically listed, they would only be defined as hazardous if they exhibit any of the hazardous waste characteristics. The test data provided in your letter appears to demonstrate that used photographic films or papers are not EP toxic. I assume you have reached a similar determination that photographic films and paper also are not ignitable, corrosive, or reactive. Based on these conclusions, photographic films and paper, in and of themselves, do not appear to be hazardous under RCRA and therefore, are not subject to the EPA hazardous waste management regulations

Under 40 C.F.R. §261 (e.g, photographic films and papers being shipped for recovery of silver are not subject to regulation).1/ You should be aware, however, that although this data appears to support your claim that photographic films and paper are not hazardous, each generator is still responsible for making this determination. Moreover, wastes not hazardous under EPA regulations may be hazardous under authorized State programs. Requirements of authorized programs that are more stringent than EPA requirements are federally enforceable.

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Please feel free to give me a call if I can be of any further assistance; my telephone number is (202) 475-8551.

Sincerely yours,

Matthew A. Straus, Chief
Waste Identification Branch (WH-562B)

l/ In your letter, you indicate that photographic films and papers would not be considered a spent material since they are not contaminated through use. I do not agree with this interpretation of the rules (i.e., used photographic films and paper would be defined as a spent material); however, since these materials are not hazardous under RCRA, this point is moot.